

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DAVID CZAPIEWSKI,

Plaintiff,

v.

BYRAN BARTOW, AMY FREEMAN and
SARAH DONOVAN,

Defendants.

ORDER

07-cv-549-bbc

Plaintiff David Czapiewski has filed a motion to compel defendants Byran Bartow, Amy Freeman and Sarah Donovan to comply with this court's February 14, 2008 order, in which I granted plaintiff leave to proceed on several claims in his amended complaint and directed defendants to file an answer within 10 days. Although defendants have not complied with the order, plaintiff's motion must be denied because it appears that neither plaintiff's original complaint nor his amended complaint has been served on defendants.

When this case was still assigned to Judge Shabaz and Robert Ciarpaglini was still a plaintiff in the case, the court directed plaintiffs to serve a summons and complaint on each of the defendants. After the case was reassigned and Ciarpaglini was dismissed from the case, I overlooked plaintiff Czapiewski's failure to comply with Judge Shabaz's order as well

as plaintiff's failure to serve his amended complaint on defendants.

It is unclear why plaintiff failed to serve his complaint, but I will give him the benefit of the doubt that the order got lost in the shuffle after the reassignment and the dismissal of Ciarpaglini, who was handling most of the filings. It is also unclear why the attorney general's office did not bring this matter to the court's attention sooner, despite its receipt of several orders in this case.

Regardless of the reason for these failings, the case cannot proceed until service has been accomplished. Pursuant to an informal service agreement between the Attorney General and this court, I will send copies of plaintiff's amended complaint, the February 14 order and this order to the Attorney General for service on defendants. Although the agreement provides defendants with 40 days to file an answer to the complaint, because they have had actual notice of the lawsuit for some time, I anticipate that their answer will be filed and served well before the deadline.

ORDER

IT IS ORDERED that plaintiff David Czapiewski's motion to compel an immediate response to the answer (dkt. #15) is DENIED. Plaintiff is reminded that he must send defendants a copy of every paper or document that he files with the court. Once plaintiff learns the name of the lawyer that will be representing the defendants, he should serve the lawyer directly rather than defendants. The court will disregard documents plaintiff submits

that do not show on the court's copy that plaintiff has sent a copy to defendants or to defendants' attorney.

Entered this 26th day of March, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge